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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,544	12/11/2001	Ronald Wayne Ausen	55947US002	7670
32692	7590	03/09/2005		EXAMINER
				FISCHER, JUSTIN R
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/016,544	AUSEN ET AL.
	Examiner	Art Unit
	Justin R Fischer	1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 February 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2 and 4-51 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 and 36-51 is/are withdrawn from consideration.
- 5) Claim(s) 1 and 2 is/are allowed.
- 6) Claim(s) 18,20,21 and 25-35 is/are rejected.
- 7) Claim(s) 19 and 22-24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 15, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18, 20, 21, and 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nalle (US 4,567,011, newly cited). Nalle, as best depicted in Figure 1, is directed to a method of forming a film structure comprising (i) extruding a planar film structure having a first major surface (top of polyolefin), a second major surface (bottom of rubber), and a top portion (layer of polyolefin), (ii) cutting or slitting said planar film structure, and (iii) stretching or drawing said planar film structure in order to provide a net-like structure (Column 2, Lines 29-50). In this instance, the polyolefin material on each side of the respective slits is being viewed as a separable surface element. In regards to the stretch ratio, one of ordinary skill in the art at the time of the

invention would have found it obvious to stretch the planar film structure at least 5% of its original dimension since it is desired to form a net-like structure with openings. It is emphasized that the claimed stretch ratio (lower value of 5%) appears to simply distinguish a stretching step from a bending or folding step. Thus, in order to obtain the desired net-like structure in Nalle, one of ordinary skill in the art at the time of the invention would have expected the extruded planar film structure to be stretched at least 5% of its original dimension.

It is initially noted that upon stretching, the intermediate surface (rubber surface that is perpendicular to the slit direction) achieves greater exposure.

With respect to claim 20, the rubber layer can be viewed as an "operating agent".

As to claims 21 and 25, the claims are directed to the use of the film structure and thus fail to further define the method of forming the film structure. In this instance, the film structure, particularly the rubber layer or operating agent, would be capable of exhibiting greater contact under certain conditions of heat and pressure.

Regarding claim 26, the slits or cuts of Nalle extend through the entire planar film structure.

With respect to claim 27, Nalle suggests that the slits can linear or square-shaped, in which case the slits or cuts are in multiple directions.

Regarding claims 28-30, the general technique of extruding a planar film structure, providing slits or cuts, and stretching said film structure is disclosed by Nalle. While the specific number of cuts, and thus the density of the separable surface elements, is not disclosed, one of ordinary skill in the art at the time of the invention

would have found the claimed values obvious depending on the intended use of the net-like structure. Nalle specifically states that a number of different products having small spacings and large spaces are within the scope of the invention (Column 2, Lines 10-20). Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to form any of the claimed densities, said density being dependent on the desired arrangement of the net-like structure.

With respect to claims 31 and 32, the planar film structure of Nalle is coextruded and formed of a top layer of polyolefin and a bottom layer of rubber (Column 2, Lines 30-40).

As to claims 33 and 34, when the slits are square-shaped, Nalle suggests that the planar film structure is stretched in the two directions that are perpendicular to said slits (Column 2, Lines 45-48). Furthermore, while Nalle fails to suggest if such a stretching is simultaneous, it is extremely well known in a wide variety of industries to accomplish such a stretching in a single operation- such an operation results in time savings and thus improved efficiency. Absent any conclusive showing of unexpected results, one of ordinary skill in the art at the time of the invention would have found it obvious to produce the two-dimensional stretching of Nalle in a single operation.

Regarding claim 35, the stretching of Nalle is seen to be inelastic since the planar film structure does not return to its original dimension after the stretch force is removed.

***Allowable Subject Matter***

4. Claims 1 and 2 are allowed. The reasons for allowance have been previously set forth in the Non-Final Rejection mailed on May 18, 2004 (Paragraph 9).
5. Claims 19 and 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schwinn (GB 2,205,526) discloses a method of forming/using an adhesive laminate comprising coextruding a three-layer laminate (backing, adhesive layer, and cover layer), placing said laminate against a paper strip, and applying pressure to the second side of said adhesive laminate (bottom of backing), wherein said pressure ruptures the brittle cover layer and allows the underlying adhesive to become exposed and initiate bonding with said paper strip.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Justin Fischer

March 7, 2005